

Pension Benefit Guaranty Corporation

§ 4043.64

(a) of this section is the contributing sponsor of the plan, the notice date is extended until 30 days after the person required to notify the PBGC has actual knowledge of the reportable event.

Subpart C—Advance Notice of Reportable Events

§ 4043.61 Advance reporting filing obligation.

(a) *In general.* Unless a waiver or extension applies with respect to the plan, each contributing sponsor of a plan for which a reportable event under this subpart is going to occur is required to notify the PBGC no later than 30 days before the effective date of the reportable event if the contributing sponsor is subject to advance reporting. If there is a change in contributing sponsor, the reporting obligation applies to the person who is the contributing sponsor of the plan on the notice date.

(b) Persons subject to advance reporting. A contributing sponsor is subject to the advance reporting requirement under paragraph (a) of this section if—

(1) Neither the contributing sponsor nor the member of the plan's controlled group to which the event relates is a public company; and

(2) The contributing sponsor is a member of a controlled group maintaining one or more plans that, in the aggregate (disregarding plans with no unfunded vested benefits) have—

(i) Vested benefits amounts that exceed the actuarial values of plan assets by more than \$50 million; and

(ii) A funded vested benefit percentage of less than 90 percent.

(c) *Funding determinations.* For purposes of paragraph (b)(2) of this section—

(1) *Actuarial value of assets.* The actuarial value of plan assets is determined in accordance with § 4006.4(b)(2) of this chapter;

(2) *Funded vested benefit percentage.* The aggregate funded vested percentage of one or more plans is the percentage that the total actuarial values of plan assets bears to the plans' total vested benefits amounts; and

(3) *Testing date.* Each plan's assets and vested benefits amount are deter-

mined as of that plan's testing date for the plan year that includes the effective date of the reportable event.

(d) *Shortening of 30-day period.* Pursuant to § 4043.3(d), the PBGC may, upon review of an advance notice, shorten the notice period to allow for an earlier effective date.

§ 4043.62 Change in contributing sponsor or controlled group.

(a) *Reportable event and information required.* Advance notice is required for a change in a plan's contributing sponsor or controlled group, as described in § 4043.29(a), and the notice shall include the information described in § 4043.29(b) and, if known, the expected effective date of the reportable event.

(b) *Waivers*—(1) *Small plan.* Notice is waived with respect to a change of contributing sponsor if the transferred plan has 500 or fewer participants.

(2) *De minimis 5-percent segment.* Notice is waived if the person or persons that will cease to be members of the plan's controlled group represent a *de minimis* 5-percent segment of the plan's old controlled group for the most recent fiscal year(s) ending on or before the effective date of the reportable event.

§ 4043.63 Liquidation.

(a) *Reportable event and information required.* Advance notice is required for a liquidation of a member of a plan's controlled group, as described in § 4043.30(a), and the notice shall include the information described in § 4043.30(b) and, if known, the expected effective date of the reportable event.

(b) *Waiver.* Notice is waived if the person that liquidates is a *de minimis* 5-percent segment of the plan's controlled group for the most recent fiscal year(s) ending on or before the effective date of the reportable event, and each plan that was maintained by the liquidating member is maintained by another member of the plan's controlled group.

§ 4043.64 Extraordinary dividend or stock redemption.

(a) *Reportable event and information required.* Advance notice is required for a distribution by a member of a plan's

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controlled group that would be described in § 4043.31(a) if both assets and liabilities were valued at fair market value. The notice shall include the information described in § 4043.31(b).

(b) *Waiver.* Notice is waived if the person making the distribution is a *de minimis* 5-percent segment of the plan's controlled group for the most recent fiscal year(s) ending on or before the effective date of the reportable event.

§ 4043.65 Transfer of benefit liabilities.

(a) *Reportable event and information required.* Advance notice is required for a transfer of benefit liabilities, as described in § 4043.32(a) (determined without regard to § 4043.32(d)), and the notice shall include the information described in § 4043.32(b).

(b) *Waivers.* Notice is waived—

(1) In the circumstances described in § 4043.32 (c)(1), (c)(2), and (c)(4); and

(2) If the benefit liabilities of 500 or fewer participants are transferred, in the circumstances described in § 4043.32(c)(3).

§ 4043.66 Application for minimum funding waiver.

(a) *Reportable event and information required.* Advance notice is required for an application for a minimum funding waiver, as described in § 4043.33(a), and the notice shall include the information described in § 4043.33(b).

(b) *Extension.* The notice date is extended until 10 days after the reportable event has occurred.

§ 4043.67 Loan default.

(a) *Reportable event and information required.* Advance notice is required for a loan default, as described in § 4043.34(a) (or that would be so described if “10 days” were substituted for “30 days” in § 4043.34(a)(1)). The notice shall include the information described in § 4043.34(b).

(b) *Waivers.* Notice is waived if the reportable default is cured, or the lender waives the default, within 10 days or, if later, by the end of any cure period.

(c) *Extensions.* The notice date is extended to the later of—

(1) *10 days after default.* 10 days after the default occurs (without regard to the time of any other conditions re-

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quired for the default to be reportable); and

(2) *One day after subsequent event.* One day after—

(i) The applicable cure period provided in the loan agreement (in the case of a default described in § 4043.34(a)(1));

(ii) The date the loan is accelerated (in the case of a default described in § 4043.34(a)(2)); and

(iii) The date the debtor receives written notice of the default (in the case of a default described in § 4043.34(a)(3)).

§ 4043.68 Bankruptcy or similar settlement.

(a) *Reportable event and information required.* Advance notice is required for a bankruptcy or similar settlement, as described in § 4043.35(a), and the notice shall include the information described in § 4043.35(b).

(b) *Extension.* The notice date is extended until 10 days after the reportable event has occurred.

Subpart D—Notice of Failure To Make Required Contributions

§ 4043.81 PBGC Form 200, notice of failure to make required contributions; supplementary information.

(a) *General rules.* To comply with the notification requirement in section 302(f)(4) of ERISA and section 412(n)(4) of the Code, a contributing sponsor of a single-employer plan that is covered under section 4021 of ERISA and, if that contributing sponsor is a member of a parent-subsidiary controlled group, the ultimate parent must complete and submit in accordance with this section a properly certified Form 200 that includes all required documentation and other information, as described in the related filing instructions. Notice is required whenever the unpaid balance of a required installment or any other payment required under section 302 of ERISA and section 412 of the Code (including interest), when added to the aggregate unpaid balance of all preceding such installments or other payments for which payment was not made when due (including interest), exceeds \$1 million.